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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,453	07/30/2003	Allan H. Fuhr	RMS	7930
53437 7590 06/20/2005			GE250.001(43602-0004)	
ROBERT M. SCHWARTZ, P.A. P.O. BOX 221470 HOLLYWOOD, FL 33022			EXAMINER PAK, JOHN D	
			ART UNIT	PAPER NUMBER
			1616	
DATE MAILED: 06/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/630,453	FUHR, ALLAN H.	
	Examiner	Art Unit	
	JOHN PAK	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-8 and 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. <u>6/16/2005</u> . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

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Claims 1-8 and 10-20 are pending in this application.

Claims 1-3 remain withdrawn as being directed to non-elected subject matter.

Claims 4-8 and 10-20 are pending in this application, and they will presently be examined.

Claim 11 and 18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 11 depends on independent claim 4. Claim 11 recites "comprises" for a composition ingredient, but claim 4 recites the composition ingredients in "consisting essentially of" language. Therefore, claim 11 is not properly dependent on claim 4.

Same comments apply to claim 18.

Claims 4-8 and 10-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(1) The Examiner maintains that "0.01% to 5% by weight, **as** chlorine dioxide, of a source of chlorine dioxide" (emphasis added) is confusing claim language. See claim 4, lines 4-5. The term "as" does not make grammatical or scientific sense in the claim language as a whole. A source of chlorine dioxide is not the same **as** chlorine dioxide, grammatically or chemically. Rewording, as suggested by the Examiner in the fax

communication of 6/14/2005, is suggested. Claims that are dependent on independent claim 4 are included in this ground of rejection, because none of the dependent claims correct the deficiency noted for the independent claim.

Applicant's remarks relative hereto, filed on 2/17/2005, have been given due consideration, but were deemed unpersuasive. Applicant states that the phrase "as ClO_2 " provides a common basis for calculating and dosing the appropriate weight amount of each source of ClO_2 . However, without additional language, such phrase is confusing. See claim 11 of U.S. Patent No. 6,387,344 to see how similar concept is acceptably rephrased, if applicant does not wish to adopt the Examiner's suggestion.

(2) The proviso at the end of claim 4 is somewhat indefinite. The "total concentration of inorganic salt" could be referring to either (i) the "at least one inorganic salt" component, or (ii) the total of all substances that happen to be inorganic salts, such as sodium chlorite, potassium aluminum sulfate. Clarification must be provided. See the Examiner's suggestion in the fax communication of 6/14/2005.

Same comments apply to claims 16 and 17.

(3) Typographical error is noted in claim 3: "toten".

Claims 1-3 are not rejoined because the composition claims have not been allowed yet.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**.

The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN PAK
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